

Revised comments and action on the basis of
the ICC recommendations, passed thereto at 2/11/73
(not on the basis of the ICC)
HAWAII

815.4

STATE PROGRAM NECESSARY
FOR PARTICIPATION NPDES

FWPCA 1972 Requirements:

1. 402(b)
EPA Regulation _____

Governor's Request

Governor may submit full and complete description of
program State proposes to establish and administer
under State law or interstate compact.

COMMENT: Authority assumed

2. 402(b)
EPA Regulation _____

Attorney General's Statement

Each requesting State shall submit a statement from the
Attorney General (or attorney for the state agency having
independent legal counsel) . . . , that the laws of such
State provide adequate authority to carry out described
program.

COMMENT: Authority assumed.

3. 402(b)(1)(A)
EPA Regulation 124.10 and Subpt, E, 124.41 - .45

Adequate authority . . . to issue permits to apply
requirements of and comply with Sections 301, 302, 306,
307 and 403

- - Effluent limitations--"best practicable" treatment
by July 1, 1977
- - National standards of performance
- - Toxic and pretreatment standards
- - Ocean discharge criteria

Section 324-6(c) "The Director shall issue a permit for any term not exceeding five years, if he determines that such will be in the public interest . . ."

COMMENT: Vague but comprehensive authority. ✓

Sec. 15

Needs implementation by Regs.

4. 402(b)(1)(B)
EPA Regulation 124.51

Permits are to be for fixed terms, not exceeding five years.

Section 324-6(c) "The Director shall issue a permit for any term, not exceeding five years. . ."

COMMENT: Authority present. ✓

5. 402(b)(1)(C)(i)
EPA Regulation 124.45(b)(1)

Permit must be able to be modified or terminated for cause including but not limited to--(i) violation of condition of the permit.

Section 342-6(c) The Director may . . . modify, suspend or revoke any permit if . . . he determines that

- (1) There is a violation of any condition of the permit, or

COMMENT: Authority present. ✓

6. 402(b)(1)(C)(ii)
EPA Regulation 124.45(b)(2)

Permit must be able to be modified or terminated for cause including but not limited to--(ii) misrepresentation or failure to disclose fully all relevant facts.

Section 342-6(c)

- (2) The permit was obtained by misrepresentation, or failure to disclose fully all relevant facts, or

COMMENT: Authority present. ✓

7. 402(b)(1)(C)(iii)
EPA Regulation 124.45(b)(3)

Permit to be terminated or modified for cause including but not limited to--(iii) a change in any condition requiring either temporary or permanent reduction or elimination of permitted discharge.

Section 342-6(c)(3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

COMMENT: Authority present. ✓

8. 402(b)(1)(D)
EPA Regulation 124.80

State must be able to control the disposal of pollutants into wells.

Section 342-31(6) "State waters" means all waters, fresh, brackish or salt, around or within the State, including but not limited to . . . groundwaters.

COMMENT: Authority present. ✓

9. 402(b)(2)(A)
EPA Regulation Subpt G, 124.61 -.64

State must be able to apply and insure compliance with Section 308 to require point source to collect, monitor, maintain records and data, etc.

Section 342-32 . . . In the discharge of his duty, the director may: (10) require the owner or operator of any effluent source to (a) establish and maintain such records; (b) make such reports; (c) install, use and maintain such monitoring equipment or methods; (d) sample such effluent and such state waters; and (e) provide such other information as the Department may require.

COMMENT: Authority present.

10. 402(b)(2)(B)
EPA Regulation 124.45(c)

State must be able to inspect, monitor, enter, as stated in Section 308.

Section 342-10 The Director may . . . enter and inspect any place (to investigate) an actual or suspected source of water . . . pollution and ascertaining compliance or noncompliance with this part, any rule regulation or standard promulgated by the Department, any permit or other approval granted by the Department and to make reasonable tests in connection therewith.

Section 342-32(11) The Director may . . . require any permittee (to allow the director) (a) to enter upon permittee's premises in which an effluent source (or required records) are located and (b) to inspect any required monitoring method or equipment, and (c) to sample any pollutant discharge.

COMMENT:

Section 342-10 Authority present. ✓

Section 324-32 Authority question-
able. ^{Regs}

5. 22(b)

11. 402(b)(3)
EPA Regulation 124.32 and 124.34

State shall insure public notification of each application and an opportunity for public hearing; State shall notify other government agencies and other States of each application and afford them opportunity to submit written recommendations.

Section 342-6(c) Paragraph 3. Director shall insure that the public receive notice of each application for a permit . . . He may hold a public hearing before ruling on an application for a permit to control water pollution if he determines such public hearing to be in the public interest.

COMMENTS:

Re: Public Notice - authority
lacking. ✓

Re: Public Hearing - Discretionary
with Director and legal
authority questionable.

Re: Notification to other
agencies - authority lacking. ✓

Re: Affording other agencies
the opportunity - authority
lacking. ✓

12. 402(b)(4)
EPA Regulation 124.23(a)

Statute requires State to insure that the Administrator receive notice of each application, including a copy. EPA Regulation requires State agency "notify other appropriate government agencies" of each complete application and provide them an opportunity to comment and make recommendations.

COMMENT: Authority lacking. ✓

13. 402(b)(5)
EPA Regulation 124.34(a)

State must insure it will receive recommendations from second affected States as to applications; State will notify such States of denial of their recommendations, with reasons in writing.

COMMENT: Authority lacking. ✓

14. 402(d)(2)
EPA Regulation 124.34, 124.41(c)

State must insure that no permit will issue if "vetoed" by Regional Administrator of EPA.

COMMENT: Authority lacking. ✓

15. 402(b)(6)
EPA Regulation 124.41(b)

State must insure that no permit will issue if "vetoed" by Corps of Engineers or Coast Guard on the basis of impairment of navigation or anchorage.

COMMENT: Authority lacking. ✓

16. EPA Regulation 124.34(b)(d)(e)

State must insure notice of application is sent to inter-state agencies with water quality control authority over waters which may be affected by issuance of permit, and to any other federal, state or local agency upon request including notice to and coordination with public health agencies.

COMMENT: Authority lacking. *See Sec 11(b)*
Not applicable to 1a.

17. 402(b)(7)
EPA Regulation 124.73(g)

State must insure to enforce conditions of the permit program including civil and criminal penalties.

COMMENT: See Entry No. 27

18. 402(b)(8)
EPA Regulation 124.45(d)(1)

Regarding municipal treatment works, permittee shall insure that permitting agency gets notice (to be required in the permit) of (A) new source additions, new sources being defined in Section 306.

COMMENT: Authority lacking. *See Sec 22(c)*

19. 402(b)(8)
EPA Regulation 124.45(d)(2)

Regarding municipal treatment works, permittee shall insure permitting agency gets notice (to be required in permit) of (B) new introduction of pollutants from Section 301 source.

COMMENT: Authority lacking. *See Sec 22(c)*

20. 402(b)(8)
EPA Regulation 124.45(d)(3)

Regarding municipal treatment works, permittee shall insure permitting agency gets notice (to be required in permit) of (C) substantial changes in volume or character of effluent from existing sources, including quality and quantity of influent and expected resulting quality and quantity of effluent.

COMMENT: Authority lacking. *See Sec 22(c)*

21. 402(b)(9)
EPA Regulation 124.45(e)

State shall insure that industrial users of public works will comply with Section 204(b) regarding industrial user charges; provision for payment of federal share necessary.

COMMENT: Authority lacking. 22(d)

22. 402(b)(9)
EPA Regulation 124.45(e)

State shall insure industrial users of municipal works will comply with Section 307 regarding toxicity and pretreatment requirements.

COMMENT: Authority lacking. 22(c)

23. 402(b)(9)
EPA Regulation 124.45(c)

State shall insure industrial users of municipal works will comply with Section 308 requirements to allow inspection, monitoring, and entry by the (Administrator) (Director) or his representative; effluent data to be publicly available. 22(d)

Section 342-10. See Entry No. 10 for text of this statute.

Section 342-5. Reports submitted to the Department on discharge of waste shall be made available for inspection by the public during established office hours unless such reports contain information of a confidential nature concerning secret processes or methods of manufacture. sec 12

COMMENT: Authority present except for public availability, authority for which is questionable.

24. 303(e)
EPA Regulation 124.93

State must have an approved continuing planning process as set out in Section 303(e).

COMMENT: Authority lacking. *This is a 46 meter*

25. 304(h) (2) (A)
EPA Regulation 124.61 and 124.62

State program must meet minimum procedural elements, including (A) monitoring requirements, at least comparable to Section 308 requirements.

Section 342-32(10) - See Entry No. 10 for text of this statute.

COMMENT: Authority present. ✓

26. 304(h) (2) (B)
EPA Regulation 124.63

State program must meet minimum procedural elements, including (B) reporting requirements--information to be made available to the public.

Section 342-32(10) (b) - Reporting requirements.
See Entry No. 9 for text of statute.

Section 342-5 - Public availability
See Entry No. 23 for text of statute.

COMMENT:

Section 342-32(10) (b) - ✓
Authority Present.

Section 342-5 - Qualification
may invalidate authority. *Sec 12*

27. 304(h) (2) (C)
EPA Regulation 124.73

State program must meet minimum procedural elements,
including (C) enforcement provisions.

EPA Regulation 124.73

- | | | |
|-----|-----------------------|--|
| (a) | 342-8, 342-11, 342-12 | Authority present. |
| (b) | 342-9 | Authority questionable
as no court suit is
required and Governor
must concur with
Director's findings. <i>subd</i> |
| (c) | 342-12 | Authority present. |
| (d) | 342-10 | Authority present. |
| (e) | 342-11 | Authority present. |
| (f) | | Authority lacking - No
provision for negligent
violation. <i>See Act 100 Amendments to</i> |
| (g) | | Authority lacking. <i>342-11</i> |

Section 342-8(a) If the director determines that
any person is: (1) violating this chapter; or
(2) violating any rule or regulation
promulgated under this chapter;
he may cause written notice to be served on the
violation specifying a reasonable time during which
the violation shall be corrected. Hearing Procedures.

(b) If after a hearing pursuant to
subsection (a) the director shall issue an appro-
priate order.

(c) Any violation of an order issued
by the director may at the discretion of the director
subject the violator to penalties of 342-11 and
injunction in 342-12.

The director is authorized to impose the penalty
specified in 342-11(a) and 342-11(c).

Section 342-9. See Entry No. 31 for text.

Section 342-10. See Entry No. 10 for text.

Section 342-11(a). Violations of this chapter or pursuant rules and regulations shall be punished by fines not more than \$2,500. Each pay of violation is a separate offense. Actions under this subsection are civil actions.

(b). Willful violations of Part III of this chapter or any pursuant to rule or regulation is punishable by a fine of \$2,500 - \$25,000 per day of violation or by imprisonment for not more than one year, or by both.

(c). Any person who obstructs the entrance and inspection by any authorized officer of the Department of any building or place he is authorized to enter and inspect shall be fined not more than \$500. Actions under this subsection are civil.

Section 342-12. The Director may institute a civil action . . . for injunctive relief to prevent any violation of this chapter or any rule or regulation thereunder.

28. 304(h)(2)(D)
EPA Regulation 124.91; 124.94

State program must meet minimum procedural elements, including (D) adequacy of funding, personnel, and manpower; agency board membership shall include no person who receives (now or for previous two years) significant income from permit holders or applicants for permits.

COMMENT: Authority lacking. ✓

29. 402(d)(1)
EPA Regulation 124.23 and 124.46

Act 100 amendments
342-35

State shall transmit to EPA a copy of each permit application and notify EPA of every action related thereto, including each proposed permit.

COMMENT: Authority lacking. ✓
Reqs.

30. 402(d)(2)
EPA Regulation _____

State shall not issue permit if Administrator objects in writing.

COMMENT: Authority lacking. *Reg 15(d)(2)*

31. 402(h)
EPA Regulation _____

State or Administrator must be able to stop industrial discharge to municipal plant if such discharge appears to cause municipality to violate permit.

Section 342-9. If the director determines that an imminent peril to the public health and safety is or will be caused by discharge of waste . . . he may, with the approval of the Governor and without public hearing, order any cause or contributor to the discharge to immediately reduce or stop such discharge.

COMMENT: Authority probably lacking as this section only covers situations of "imminent peril to the public health and safety." *See Act 100*

32. 402(j)
EPA Regulation _____

State must make permits and applications available to public and available for reproduction.

COMMENT: Authority lacking. *342-5*

33. 405(c)
EPA Regulation _____

Administrator to determine if State program regarding sewage sludge disposal permits is adequate.

COMMENT: Authority lacking. *See Regs 1(b)*